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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,690	09/11/2000	Mark John Berry	PM271641	9282

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EXAMINER

WHITE, EVERETT NMN.

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 02/21/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/600,690

Applicant(s)

BERRY ET AL.

Examiner

EVERETT WHITE

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to the drawings, each of the lettered items should appear in upper case, without underling or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
 - (b) Cross-Reference to Related Applications.
 - (c) Statement Regarding Federally Sponsored Research or Development.
 - (d) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on compact disc (see 37 CFR 1.52(e)(5)).
 - (e) Background of the Invention.
 1. Field of the Invention.
 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
 - (f) Brief Summary of the Invention.
 - (g) Brief Description of the Several Views of the Drawing(s).
 - (h) Detailed Description of the Invention.
 - (i) Claim or Claims (commencing on a separate sheet).
 - (j) Abstract of the Disclosure (commencing on a separate sheet).
 - (k) Drawings.
 - (l) Sequence Listing, if on paper (see 37 CFR 1.821-1.825).
2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

Claim Objections

3. Claims 7-10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 1, the phrase "capable of" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Applicants are requested to clarify whether or not the instant claims are directed to a polysaccharide conjugate that is actually bound to cellulose.

Claims 4 and 5 set forth improper Markush terminology. The phrase "selected from" should be changed to "selected from the group consisting of—in order to overcome the improper Markush terminology.

Regarding Claim 5, at lines 2 and 3, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding Claim 5, at line 3, the term "particularly" renders the claim indefinite because it is unclear whether the limitations following the term are part of the claimed invention. See MPEP § 2173.05(d).

In Claim 5, lines 2 and 4, the terms "(TXG)", "(LEB)", and "(EMG)" should be deleted.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent No. JP61155307.

Applicants claim a polysaccharide conjugate comprising a polysaccharide attached to a particle carrying perfume, the polysaccharide conjugate being capable of binding to cellulose. See page 6, lines 23 and 24 of the instant specification wherein the particle may be attached to the polysaccharide by a range of physical or chemical means and line 26 of page 6 of the instant specification wherein silica particles may be used.

JP61155307 discloses an oil containing powder or granule that comprises hydrophobic oil containing silica with a petal shape, in which the surface of the silica is coated with a water soluble polymer. The Japanese patent discloses that the oil may be selected as perfume oil and that the water soluble polymer is, e.g. natural polysaccharide and protein. Examples of the polysaccharides that are disclosed in the abstract of the Japanese patent include potato starch, cornstarch, sodium alginate, tragacanth gum, arabic gum, pectin, carrageenin, gelatin, dextrin, methylcellulose, etc. (see abstract). The broadly named polysaccharides that are disclosed in instant Claims 1-3 embraces the polysaccharides that are disclosed in the Japanese patent. For example, cellulose is a 1,4-linked- β -glucan compound. The above description of the Japanese patent anticipates the subject matter of instant Claims 1-3 and 6.

7. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Wise et al (European Patent Application No. 439,373).

The Wise European reference discloses a low density calcium carbonate-containing agglomerate, utilizing a carbohydrate as a binder. Wise discloses that the low density agglomerate is a porous medium which may be useful as a carrier for fragrances (see page 2, lines 51 and 52) and that the carbohydrate binder may be selected as molasses, polydextrose, starches, gums, and celluloses. The broadly named polysaccharides that are disclosed in instant Claims 1-3 embraces the polysaccharides that are disclosed in the Wise European reference. The above

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description of the Wise European reference anticipates the subject matter of instant Claims 1-3.

Summary

8. Claims 1-6 are rejected; Claims 7-10 are objected to.

Examiner's Telephone Number, Fax Number, and Other Information

9. For 24 hour access to patent application information 7 days per week, or for filing applications, please visit our website at www.uspto.gov and click on the button "Patent Electronic Business Center" for more information.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Everett White whose telephone number is (703) 308-4621. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Geist, can be reached on (703) 308-1701. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

E. White

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GARY GEIST
SUPERVISORY PATENT EXAMINER
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